



Access World News

## **U.S., STATE OF ILLINOIS AGAIN GO AFTER CHEMETCO SMELTING PLANT - COMPANY IS ACCUSED OF DELIBERATE AIR, WATER POLLUTION**

**St. Louis Post-Dispatch** - Tuesday, September 19, 2000

**Author:** By Michael Shaw ; Of The Post-Dispatch

The federal Clean Air and Clean Water acts were enacted in the early 1970s, but Chemetco Inc. operated for years as if those laws never existed, says a lawyer for the state of Illinois who has pursued the company for more than a decade.

James R. Morgan, an assistant attorney general who has been lead attorney for Illinois in the Chemetco case since 1988, says the company has tried to change its ways in the last few years. But the copper smelting plant near Hartford nevertheless is the state's No. 1 concern among active industrial sites, Morgan said.

The leading indicator of the company's mind-set, investigators say, was a pipe installed in 1986 to surreptitiously carry waste metals from the plant into Long Lake, a wide, stagnant creek that eventually drains into the Mississippi River. The company faces a criminal fine for that action.

Last month, Chemetco became the target of federal and state suits over other alleged violations that the government says may be less malicious but are no less deliberate.

Chemetco extracts copper from scrap metal by burning it in a furnace. Left over are several types of pollutants: air emissions from the burning, waste water (which was sent through the illegal pipe until it was shut down after 10 years of dumping) and solid waste.

Morgan said that not since the 1970s has a company deliberately ignored the law the way Chemetco has.

"If you look at how facilities were operated prior to the Clean Air Act and the Clean Water Act, they dumped what they wanted," he said. "That seems to be how Chemetco was operated for the longest time. Nothing was a problem until someone told them it was a problem."

Five former employees, including former plant manager Bruce W. Hendrickson, were sentenced earlier this year in U.S. District Court in East St. Louis for installing or maintaining the secret pipe. They have received in-house detention or probation.

The company's former president, Denis Feron, also faces criminal charges over the pipe. Authorities allege that Feron ordered the pipe installed. But he has apparently left the country, possibly to his native Belgium.

The company and the federal government are now negotiating over the fine the company should pay.

Telephone calls to Chemetco's chairman, John Suarez, and other officers of the privately owned company were not returned. Attorneys for the company could not be reached for comment. Founded in 1970, Chemetco is estimated to employ about 150 workers and to generate about \$50 million in annual sales.

In addition to the government action, two property owners claim in suits filed in January that they were exposed to serious health risks and are seeking \$11 million each. In addition, a class-action suit filed last year also alleges damages.

In 1998, Robert and Ann Boettcher, who had property near the plant, settled a suit against Chemetco for undisclosed terms. Part of the settlement may have been Chemetco's purchase that year of the Boettchers' property for \$290,000.

30,000-ton waste pile

The federal and state suits target a pile of gray slag that looms just north of the plant. It threatens to overrun a

chain-link fence that surrounds the industrial site.

The slag, made of leftover metal and other ingredients when scrap metal is melted, was classified as hazardous waste in 1991. An estimated 30,000 tons have piled up.

Also alleged in the suits are improper construction of a bunker of zinc oxide, careless handling of old furnace bricks contaminated with heavy metals and the presence of contaminated dust from the smelting process.

Morgan began pursuing air pollution problems at the site in 1988. That investigation disclosed water and hazardous waste problems. Even the initial air pollution concerns are not resolved.

"Everything is still pending," he said. Chemetco agreed in 1988 to pay an \$80,000 fine and up to \$10 million to develop technology to reduce air pollution.

But Morgan said the company recently admitted that its solution, called a "rotofilter," doesn't work properly and the company must go back to the drawing board.

Lead in the plant's air emissions have been found to be two to six times the government's acceptable levels. Lead in the ground water surrounding the plant is significant, Morgan said.

Madison County residents shouldn't be overly concerned, however, because any contamination isn't threatening private wells or municipal water systems. But ground water contamination could eventually migrate to wells if not stopped, Morgan said.

Otherwise, the plant is largely isolated, surrounded by agricultural fields and just a few homes.

"When we hear they are discharging hazardous waste into our drainage ditches, we are obviously concerned," said Joseph Parente, administrator for the Madison County's building, zoning and environmental department. "But it's the state's jurisdiction, so we're acting as bystanders."

Testing shows that contaminants in Long Lake are below dangerous levels when the creek reaches Pontoon Beach.

But property owners there aren't taking any chances. They have a civil suit pending in Madison County Circuit Court.

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#### Chemetco chronology

1986: Chemetco Inc. near Hartford secretly installs a pipe to carry waste metals from the copper smelting plant into Long Lake. The company faces a criminal fine for that action.

1991: Leftover metals at the site are classified as hazardous waste.

1998: Robert and Ann Boettcher settle a suit against Chemetco for undisclosed terms.

January 2000: Haskell Pyatt and Robert and Pamela Jellen, who each own real estate adjacent to Long Lake, sue the company for \$11 million each, claiming land was damaged by toxins released from a secret Chemetco Inc. pipe.

March 2000: The Chouteau, Nameoki and Venice Drainage District sues Chemetco and several of its officers and employees in Madison County Circuit Court alleging that the plant's installation of a secret pipe that drained lead, cadmium and zinc into Long Lake permanently damaged the drainage district's property. District officials are seeking \$50,000 plus punitive damages.

April 2000: Two workers at Chemetco each received one year of probation and a \$2,500 fine in U.S. District Court in East St. Louis for their roles in the dumping of contaminated soil into Long Lake. Two other former workers at the plant are sentenced to home confinement for their part in the dumping.

August 2000: The state of Illinois joins the federal government in suing Chemetco over pollution.

**Caption: PHOTO**

Color Photo by SAM LEONE / POST-DISPATCH - A pile of gray slag rises just north of the Chemetco Inc. smelting plant near Hartford. It consists of the byproducts from melted metal. leftover metal

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## CHEMETCO, AGENCY STALL OVER CLEANUP - CONTAMINANTS AT LONG LAKE AT ISSUE

**Belleville News-Democrat, The (IL)** - Tuesday, October 16, 2001

**Author:** Associated Press

HARTFORD --- Chemetco Inc. and state officials are at an impasse over the cleanup of Long Lake, contaminated by hazardous waste dumped illegally by the copper smelting company for 10 years before regulators found out.

Chemetco walked away from talks with state and federal officials last summer over how and to what extent they must remove contaminants, said Patrick M. Flynn, the company's lawyer.

The talks were part of an effort to settle a civil lawsuit filed against the company by the U.S. Justice Department and state and federal environmental regulators, before the case goes to trial in April.

In 1996, state EPA workers found a secret pipe leading from Chemetco's factory to wetlands that fed Long Lake, a tributary of the Mississippi River. By that time, regulators estimate at least 30,000 cubic feet of zinc oxide had seeped into the lake bed over the previous decade.

The company was fined \$3.86 million earlier this year for conspiracy and violating the federal Clean Water Act.

Four Chemetco workers were convicted of conspiracy in the case, sentenced to home detention and fined. Former Chemetco President Denis L. Feron, who prosecutors say ordered the pipeline, remains a fugitive.

The company was put on probation for 5 years and ordered to comply with an IEPA plan to clean up the contaminated area. Any settlement reached last summer in the civil case would have fulfilled that requirement in the criminal case, as well, said Jim Morgan, the assistant Illinois attorney general representing the IEPA in the case.

But talks broke down over the company's demand that they help select the clean water standards that any cleanup would have to meet, Flynn said.

"The EPA wanted to leave that open, subject only to their discretion," he said. "We weren't comfortable with that."

The company says it already has cleaned up part of the lake and a neighboring wetland where the pipe was located.

IEPA regulators are waiting for test results that show the water in the "impoundment area" is clean, said Chris Cahnovsky, an IEPA field worker who monitors the case.

But the sticking point is what, if any, responsibility the company has for the rest of the lake, only part of which is on their property.

Flynn said it's not been proven there are any contaminants in the rest of the lake.

But Cahnovsky and Morgan say Chemetco's samples from June 2000 showed hazardous levels of cadmium in the lake about 900 feet downstream of the impoundment area.

"To put it in the best light possible for Chemetco, there are contaminants in Long Lake that they haven't addressed yet," Morgan said.

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## **Bankrupt smelter's execs settle case for \$3.1 million Documents say there was no finding of fraud in Chemetco case.**

**St. Louis Post-Dispatch (MO)** - Saturday, July 2, 2005

**Author:** MICHAEL SHAW *Of the Post-Dispatch*

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The president of bankrupt Chemetco Inc., his relatives and associates, as well as several companies controlled by them, agreed Friday to a \$3.1 million settlement with a bankruptcy trustee who'd accused them of looting the company before it sought bankruptcy in 2001.

Laura Grandy, who oversaw Chemetco's four-year bankruptcy proceeding, last year sued President John Suarez as well as dozens of others she claimed were "insiders," accusing them of draining off \$30 million.

But settlement documents filed on Friday in Bankruptcy Court in East St. Louis say that there was no finding of "fraud or breach of fiduciary duty," by Suarez and others.

The settlement includes 26 companies and individuals besides Suarez, ranging from his children, to his Souard restaurant, the Lynch Street Bistro, to his industrial firms. Suarez, of Ladue, had been individually accused of taking \$650,000 from the company, which he claimed as expenses.

In the settlement, Suarez and 12 others have collectively agreed to pay the \$650,000 to the bankruptcy case. He couldn't be reached for comment.

The \$3.1 million total will be divided up among the company's creditors.

Grandy said that when she filed suit last year, she didn't have access to all the documentation concerning payments between Chemetco and Suarez's other companies or those with close ties to him. The \$30 million figure arose by looking at four years of payments to those firms and individuals.

Chemetco was a large smelting company near Hartford. It had been the focus of numerous environmental complaints before shutting down four years ago.

Before Suarez bought it in 1993, an owner ordered the deliberate pumping of industrial waste into a nearby lake through a secret pipeline. That owner was charged criminally, but hasn't been taken into custody.

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## **CHEMETCO TRANSFER OF MILLIONS RUNS INTO CHALLENGE - BANKRUPTCY TRUSTEE SAYS PAYMENTS TO "INSIDERS" SHORTED OTHER CREDITORS**

**St. Louis Post-Dispatch (MO)** - Wednesday, May 26, 2004

**Author:** Michael Shaw Of The Post-Dispatch

Chemetco Inc., a large smelting company near Hartford, transferred more than \$30 million to companies owned or controlled by its own officers before it declared bankruptcy in 2001.

The trustee overseeing the bankruptcy case claims those payments were made to "insiders" -- company officers and their family members -- and were either preferential or fraudulent because they took money out of the bankruptcy estate and shorted the company's other creditors.

The owner of the now-dormant company, John Suarez, said in an interview last week that all of the payments were legitimate and that the company never transferred wealth away from Chemetco or hoarded money.

Company officers didn't decide to declare bankruptcy until a month before Chemetco shut down in November 2001, Suarez said.

He added that he's looking forward to setting the record straight.

"I didn't do everything right, but I never did anything to harm the creditors," said Suarez, 60, who is originally from Fairmont City and now lives in Ladue.

Payments being questioned also went to Suarez himself and other officers, and covered wages, benefits or renovations at Suarez's two restaurants, according to court filings by Laura Grandy, the trustee. Grandy, a bankruptcy lawyer from Belleville, claims that money belongs to Chemetco's creditors.

Suarez said the \$650,000 in personal payments to him were likely for expense accounts, as were payments to his family members, including grown children, his wife and one of his cousins, who worked at Chemetco.

The dispute is set for a hearing in November, three years after the company declared bankruptcy. Since Chemetco closed, state officials have been working to clean the site. They say there is not enough money left to resolve all of the remaining environmental issues, so they are hoping that Suarez and others have to repay some of the money.

Chemetco earned a reputation as an environmental rogue after the company deliberately dumped industrial waste into a nearby lake through a secret pipe. The pipe was authorized in 1986 by a former owner who is still considered a fugitive from justice.

After working there for several years, Suarez bought the plant in 1993. He was not charged in the environmental case. The company was fined \$3.8 million in 2000 and paid about \$900,000 before it shut its doors.

Last November, Grandy began attempts to get repayment from 250 companies or individuals who received payments from Chemetco, in some cases going back as far as four years. About 30 of those involve allegations of some sort of "insider" status. She could not be reached for comment.

Suarez's lawyer, Steve Mottaz of Belleville, said the claims were filed just as a two-year statute of limitations was running out. He said it isn't unusual for a bankruptcy trustee to file such claims against a large company.

"The word 'fraudulent' implies they did something wrong," he said. "But all it means under the bankruptcy act is you've got to repay the money. This is a civil case, not a criminal case."

Some of the largest payment totals were made to companies owned by Chemetco itself, or Suarez. They include \$11 million to a Mexican metal scrap company and \$7.4 million to a trucking company owned by Suarez that is still operating.

"There are tickets and receipts for every pound of scrap that was shipped," Suarez said. He considers himself now largely retired, although he still owns Koke's restaurant in Fairmont City and the Lynch Street Bistro in St. Louis.

Suarez said it was his policy to set up satellite companies that would insulate the main company from liability, and that's why payments often went through those companies.

"I was shocked," he said of the allegations against him, other Chemetco officers and his family. "I don't like it when my family gets attacked."

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